



WASHINGTON, DC

STEPHEN E. CORAN
202.416.6744
SCORAN@LERMANSENTER.COM

November 20, 2014

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **JAB Wireless, Inc.**
WC Docket No. 14-93
EB Docket No. 06-36

Dear Ms. Dortch:

In its November 10, 2014 response to the CAF Phase II challenge filed by JAB Wireless, Inc. ("JAB"), CenturyLink states that it "could not find a 2013 CPNI certification for JAB."¹ Although JAB understands that the Wireline Competition Bureau ("Bureau") does not intend to entertain evidence submitted after the November 10, 2014 deadline, JAB is providing the attached information to demonstrate that its CPNI certification was in fact timely and properly filed with the Commission.

Attached as Exhibit 1 hereto is a copy of the CPNI certification submitted on behalf of JAB's seven operating subsidiaries. As the first page indicates, this was timely filed on February 28, 2014 through the Commission's web-based application, as permitted by the February 5, 2014 Enforcement Advisory attached as Exhibit 2 hereto.² The CPNI certification specifically includes a "CPNI Compliance Manual and Operating Procedures: JAB Wireless, Inc. and Operating Companies."

¹ CenturyLink Response to CAF Phase II Challenges Seeking to Reclassify Unserved Census Blocks as Served, Exhibit 1, at 35.

² FCC Enforcement Advisory, DA 14-138 (rel. Feb. 5, 2014), at 4.

LS

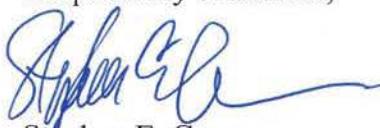
Marlene H. Dortch, Secretary

November 20, 2014

Page 2

JAB intends by this submission to ensure that the Bureau understands that JAB's operating subsidiaries timely and properly filed the 2013 CPNI certification and bases its decision regarding JAB's CAF Phase II challenge on relevant facts.³

Respectfully submitted,



Stephen E. Coran

Counsel to JAB Wireless, Inc.

cc: Gilbert Smith

³ Out of an abundance of caution, JAB is also submitting this in EB Docket No. 06-36, notwithstanding the timely filing through the Commission's web-based application.

Exhibit 1

Announcing a new FCC.gov

Tell us what you think and help shape the future »



[Search](#) | [RSS](#) | [Updates](#) | [E-Filing](#) | [Initiatives](#) | [Consumers](#) | [Find People](#)

CPNI Template Submission

[Customer Proprietary Network Information \(CPNI\) Certification Home](#)

Annual 47 C.F.R. § 64.2009(e) CPNI Certification Template EB Docket 06-36

Submission Confirmation Number: 78082456

Annual 64.2009(e) CPNI Certification for 2014 covering the prior calendar year: 2013

1. Date filed: Feb 28 2014 7:14PM

2. Name of company(s) covered by this certification:

- AirCanopy Internet Services, Inc. (826095)
- Digis, LLC. (826259)
- Essex Telcom, Inc. (823076)
- LP Broadband, Inc. (826253)
- Rhino Communications, Inc. (829810)
- Skybeam Acquisition Corporation (829809)
- Suburban Broadband, LLC. dba SBB One Communications (826524)

3. Form 499 Filer ID(s): 823076 826095 826253 826259 826524 829809 829810

4. Name of signatory: John S. Koo

5. Title of signatory: Chief Executive Officer

6. Certification:

I, John S. Koo [name of officer signing certification], certify that I am an officer of the company named above, and acting as an agent of the company, that I have personal knowledge that the company has established operating procedures that are adequate to ensure compliance with the Commission's CPNI rules. See 47 C.F.R. § 64.2001 *et seq.*

Attached to this certification is an accompanying statement explaining how the company's procedures ensure that the company is in compliance with the requirements (including those mandating the adoption of CPNI procedures, training, recordkeeping, and supervisory review) set forth in section 64.2001 *et seq.* of the Commission's rules.

The company [☐ has ☒ has not] taken actions (*i.e.*, proceedings instituted or petitions filed by a company at either state commissions, the court system, or at the Commission against data

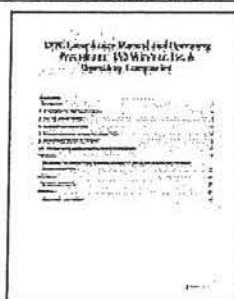
brokers) against data brokers in the past year. [NOTE: If you reply in the affirmative, please provide an explanation of any actions taken against data brokers.]

The company [☐ has ☒ has not] received customer complaints in the past year concerning the unauthorized release of CPNI [NOTE: If you reply in the affirmative, please provide a summary of such complaints. This summary should include number of complaints, broken down by category or complaint, e.g., instances of improper access by employees, instances of improper disclosure to individuals not authorized to receive the information, or instances of improper access to online information by individuals not authorized to view the information.]

The company represents and warrants that the above certification is consistent with 47. C.F.R. § 1.17 which requires truthful and accurate statements to the Commission. The company also acknowledges that false statements and misrepresentations to the Commission are punishable under Title 18 of the U.S. Code and may subject it to enforcement action.

Signed: [☒ Signature of an officer, as agent of the carrier]

Attachments: Accompanying Statement explaining CPNI procedures
Explanation of actions taken against data brokers (if applicable)
Summary of customer complaints (if applicable)



[2-28-14 CPNI Filing for 2013.pdf](#)

[Return to CPNI Home](#)

[FCC Home](#) | [Search](#) | [RSS](#) | [Updates](#) | [E-Filing](#) | [Initiatives](#) | [Consumers](#) | [Find People](#)

Federal Communications Commission Phone: 1-888-CALL-FCC (1-888-225-5322)
445 12th Street SW
Washington, DC 20554 TTY: 1-888-TELL-FCC (1-888-835-5322)
[More FCC Contact Information...](#) Fax: 1-866-418-0232
E-mail: fccinfo@fcc.gov

- [Privacy Policy](#)
- [Website Policies & Notices](#)
- [Required Browser Plug-Ins](#)
- [Freedom of Information Act](#)

CPNI Template Submission Software Version 00.01.03 April 5, 2011

CPNI Compliance Manual and Operating Procedures: JAB Wireless, Inc. & Operating Companies

Contents

I. DEFINITIONS:	2
II. STATEMENT OF CORPORATE POLICY:	3
III. USE OF CPNI IN GENERAL:	4
IV. Guidelines for Use of CPNI:	4
V. Obtaining Customer Approval for Use of CPNI:	5
VI. Notices Required for Use of CPNI:	6
VII. Company Safeguards and Recordkeeping Requirements:	9
APPENDIX 1	11
CERTIFICATE OF COMPLIANCE WITH PROTECTION OF CUSTOMER PROPRIETARY NETWORK INFORMATION RULES	11
APPENDIX 2	13
Employee Verification	13
APPENDIX 3	14
SAMPLE OPT-OUT NOTICE	14

I. DEFINITIONS:

Affiliate: A person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. The term "own" means to own an equity interest (or the equivalent thereof) of more than 10 percent.

Carrier: See Telecommunications Carrier.

CMRS: Commercial Mobile Radio Service.

Communications-Related Services: Telecommunications services, information services typically provided by telecommunications carriers, and services related to the provision or maintenance of customer premises equipment.

Company: JAB Wireless, Inc.

Customer: A person or entity to which a telecommunications carrier is currently providing service.

Customer Proprietary Network Information (CPNI): Information that relates to the quantity, technical configuration, type, destination, location, and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship; and Information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier. CPNI does not include subscriber list information.

Customer Premises Equipment: Equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications service(s).

FCC: Federal Communications Commission or any legal successor federal agency.

Information Service: The offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

Information Services Typically Provided by Telecommunications Carriers: Information services that telecommunications carriers typically provide, such as Internet access or voice mail services. The term does not include retail consumer services provided using Internet websites (such as travel reservation services or mortgage lending services), whether or not such services might otherwise be considered to be information services.

Local Exchange Carrier: Any person engaged in the provision of telephone exchange service or exchange access. Such term does not include a person insofar as such person is engaged in the provision of a

commercial mobile service (except to the extent that the FCC determines that such service should be included in the definition of the term).

Opt-In Approval: A method for obtaining customer consent to use, disclose, or permit access to the customer's CPNI. This approval method requires that the carrier obtain the customer's affirmative, express consent allowing the requested CPNI usage, disclosure, or access after the customer is provided appropriate notification of the carrier's request.

Opt-Out Approval: A method for obtaining customer consent to use, disclose, or permit access to the customer's CPNI. Under this approval method, a customer is deemed to have consented to the use, disclosure, or access to the customer's CPNI if the customer has failed to object thereto within the prescribed waiting period, after the customer is provided appropriate notification of the carrier's request for consent.

Subscriber List Information: Any information (1) identifying the listed names of a carrier's subscribers and the subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and (2) that the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format.

Telecommunications Carrier: Any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in 47 USC 226).

Telecommunications Service: The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

II. STATEMENT OF CORPORATE POLICY:

The policy of JAB Wireless, Inc. is to comply with the laws of the United States, including those pertaining to CPNI contained in § 222 of the Telecommunications Act of 1996, as amended, 47 USC 222, and the FCC's regulations, 47 CFR 64.2001-.2009. The Company's policy is to rely on individual operating company management to ensure that no use of CPNI is made until a full review of applicable law has occurred.

The FCC's regulations, 47 CFR 64.2009, require the Company to implement a system to clearly establish the status of a customer's CPNI approval prior to the use of CPNI, and to train its personnel as to when they are and are not authorized to use CPNI, and to have an appropriate disciplinary process in place to address any deviation of said policy. This Manual constitutes the Company's policies and procedures related to CPNI.

All employees are required to follow the policies and procedures specified in this Manual.

Any questions regarding compliance with applicable law and this Manual are to be referred to Bill Mahon or Jack Koo.

Any violation or breach of, or departure from, the policies and procedures in this Manual, shall be reported immediately to Bill Mahon or Jack Koo.

III. USE OF CPNI IN GENERAL:

Except as otherwise described in this Manual, when the Company receives or obtains any CPNI by virtue of its provision of a telecommunications service, it can only use, disclose, or permit access to individually identifiable CPNI in its provision of:

1. The telecommunications service from which the information is derived; or
2. Services necessary to provide or used in the provision of the telecommunications service, including the publishing of directories and establishment of emergency location records.

IV. Guidelines for Use of CPNI:

A. The Company may not use, disclose, or permit access to CPNI to market service offerings to any customer's that is within a category of service to which the customer does not already subscribe from the Company, unless the Company has customer approval to do so (except that no customer approval is necessary in the situations described in IV.D.).

B. The Company cannot use, disclose or permit access to CPNI to identify or track customers that call competing service providers. Thus, the Company may not use local service CPNI to track any customers that may call its local service competitors.

C. The Company may use, disclose, or permit access to CPNI for the purpose of providing or marketing service offerings among the categories of service (i.e., local, interexchange, and CMRS) to which the customer already subscribes to any service offered by the Company without customer approval.

1. If the Company provides different categories of service and a customer subscribes to more than one category of service offered by the Company, the Company may share CPNI among its affiliated entities that provide a service offering to the customer, without customer approval.

2. If the Company provides different categories of service, but a customer does not subscribe to more than one offering offered by the carrier, the carrier is not permitted to share CPNI with its affiliates, except with the customer's approval as outlined in V., below.

D. The Company may use, disclose, or permit access to CPNI, without customer approval, as outlined below:

1. To provide inside wiring installation, maintenance, and repair services.

2. To market services formerly known as adjunct-to-basic services, such as, but not limited to speed dialing, computer-provided directory assistance, call monitoring, call tracing, call blocking, call return, repeat dialing, call tracking, call waiting, caller I.D., call forwarding, and/or Centrex features.
3. For the provision of customer premises equipment and call answering, voice mail or messaging, voice storage and retrieval services, fax store and forward, and protocol conversion.
4. To protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to such services.
5. Initiate, render, bill and collect for telecommunications services.
6. Provide call location information concerning the user of a mobile service in emergency situations.

V. Obtaining Customer Approval for Use of CPNI:

A. Soliciting Customer Approval: The Company may obtain approval through written, oral or electronic methods.

1. If the Company relies on oral approval, it bears the burden of demonstrating that such approval has been given in compliance with the FCC's regulations.
2. A customer's approval or disapproval to use, disclose, or permit access to CPNI must remain in effect until the customer revokes or limits such approval or disapproval.
3. The Company must maintain records of approval, whether oral, written or electronic, for at least one (1) year.

B. Use of Opt-Out and Opt-In Approval Processes

1. The Company may utilize the opt-out or opt-in method to obtain approval to use its Customer's Individually Identifiable Information (CPNI) for the purpose of marketing communications-related services to that customer.
2. The Company may also utilize the opt-out or opt-in method to obtain approval to disclose its customer's Individually Identifiable CPNI, for the purpose of marketing communications-related services to that customer, to its agents, to its affiliates that provide communications-related services and to its joint venture partners and independent contractors.
3. If the Company discloses or provides access to CPNI to a joint venture partner or independent contractor, in addition to obtaining customer approval, it must also enter into confidentiality agreements with such contractors or partners. The confidentiality agreement must:

- i. Require that the independent contractor or joint venture partner use the CPNI only for the purpose of marketing or providing the communications-related services for which the Company has provided the CPNI;
- ii. Disallow the independent contractor or joint venture partner from using, allowing access to or disclosing the CPNI to any other party, unless required to make such disclosure under force of law.
- iii. Require that the independent contractor or joint venture partner have appropriate protection in place to ensure the ongoing confidentiality of consumers' CPNI.

VI. Notices Required for Use of CPNI:

A. Mandatory Notices Regarding Solicitation

- 1. Prior to soliciting any customer approval to use, disclose, or permit access to customers' CPNI, the Company must notify the customer of the customer's right to restrict use of, disclosure of, and access to, the customer's CPNI.
- 2. The Company must maintain records of the notification, whether oral, written or electronic, for at least one year.
- 3. Content of Notice: Customer notification must provide sufficient information to enable the customer to make an informed decision whether or not to permit a carrier to use, disclose, or permit access to the customer's CPNI. The notification must:
 - i. Clearly state that the customer has a right and the Company has a duty, under federal law, to protect the confidentiality of CPNI.
 - ii. Specify the types of information that constitute CPNI and the specific entities that will receive the CPNI, describe the purposes for which CPNI will be used and inform the customer of the right to disapprove those uses, and deny or withdraw access to CPNI at any time.
 - iii. Advise the customer of the precise steps the customer must take in order to grant or deny access to CPNI, and must clearly state that a denial of approval will not affect the provision of any services to which the customer subscribes. However, the Company may provide a brief statement in clear and neutral language, describing consequences directly resulting from the lack of access to CPNI.
 - iv. Be comprehensible and not misleading

v. State that any approval or denial of approval for the use of CPNI outside of the service to which the customer already subscribes from that carrier is valid until the customer affirmatively revokes or limits such approval or denial.

4. If written notification is provided, the notice must be clear and use sufficiently large type, and be placed in an area so as to be readily apparent to a customer.

5. If any portion of a notification is translated into another language, then all portions of the notification must also be translated into that same language.

6. The Company may state in the notification that the customer's approval to use CPNI may enhance the carrier's ability to offer products and services tailored to the customer's needs. The Company also may state in the notification that it may be compelled to disclose CPNI to any person upon affirmative written request by the customer.

7. A carrier may not include in the notification any statement attempting to encourage a customer to freeze third-party access to CPNI.

8. The Company's solicitation for approval must be proximate to the notification of a customer's CPNI rights.

B. Opt-Out Notice Requirements: The Company must provide notification to obtain opt-out approval through electronic or written methods, but not by oral communication (except for one-time use of CPNI, as discussed in VI.E., below). The contents of any such notification must comply with the requirements of VI.A.3., above.

1. The Company must wait for a minimum of 30-days after giving customers notice and give customers ample opportunity to opt-out, before assuming customer approval to use, disclose, or permit access to CPNI. The Company must notify customers of the specified waiting period for a response before approval is assumed.

i. In the case of an electronic form of notification, the waiting period begins to run from the date on which the notification was sent.

ii. In the case of notification by mail, the waiting period begins on the third day following the date that the notification was mailed.

2. If the Company uses the opt-out mechanism, it shall provide notices to its customers every two years.

3. Use of E-mail: If the Company uses e-mail to provide opt-out notices, it must comply with the following additional requirements:

i. The Company must have express, verifiable prior approval from consumers to send notices via e-mail regarding their service in general, or CPNI in particular;

ii. Customers must be able to reply directly to e-mails containing CPNI notices in order to opt-out.

iii. Opt-out e-mail notices that are returned to the Company as undeliverable must be sent to the customer in another form before the Company may consider the customer to have received notice; and

iv. The subject line of the e-mail must clearly and accurately identify the subject matter of the e-mail.

v. The Company must make available to every customer a method to opt-out that is of no additional cost to the customer and that is available 24 hours a day, seven days a week. The Company may satisfy this requirement through a combination of methods, so long as all customers have the ability to opt-out at no cost and are able to effectuate that choice whenever they choose.

D. Opt-In Notice Requirements. The Company may provide notification to obtain opt-in approval through oral, written, or electronic methods. The contents of any such notification must comply with the requirements described in VI.A.3. above.

E. Notice Requirements Specific to One-Time Use of CPNI

1. The Company may use oral notice to obtain limited, onetime use of CPNI for inbound and outbound customer telephone contacts for the duration of the call, regardless of whether carriers use opt-out or opt-in approval, based on the nature of the contact.

2. The contents of any such notification must comply with the requirements of VI.A.3., except that the Company may omit any of the following if not relevant to the limited use for which the carrier seeks CPNI:

i. The Company need not advise customers that if they have opted-out previously, no action is needed to maintain the opt-out election.

ii. The Company need not advise customers that it may share CPNI with its affiliate(s) or third parties and need not name those entities, if the limited CPNI usage will not result in use by or disclosure to, an affiliate or third party.

iii. Carriers need not disclose the means by which a customer can deny or withdraw future access to CPNI, as long as carriers explain to customers that the scope of the approval the carrier seeks is limited to a one-time use.

iv. Carriers may omit disclosure of the precise steps a customer must take in order to grant or deny access to CPNI, provided that the carrier clearly communicates to the customer that the customer can deny access to his CPNI for the call.

F. Except for use and disclosure of CPNI that is permitted without customer approval as discussed above, and except for the purpose of marketing communications-related services to a customer, the Company may only use, disclose, or permit access to a customer's individually identifiable CPNI subject to opt-in approval.

VII. Company Safeguards and Recordkeeping Requirements:

A. Management Safeguards

1. Training of Company personnel will include review of this Manual by all new employees and all existing employees who have not previously done so.
2. The Company will provide additional training on an as needed basis.
3. Company personnel will make no decisions regarding CPNI without first consulting Jim Vaughn or Bill Mahon.

The Company's personnel must obtain supervisory approval from a person listed above regarding any proposed use of CPNI.

4. In deciding whether the contemplated use of the CPNI is proper, the individual(s) listed in the previous paragraph will consult this manual, applicable FCC regulations or Compliance Guide, and, if necessary, legal counsel.
5. The person(s) listed in VII.A.3. above will personally oversee the use of approval methods and notice requirements for compliance with all legal requirements.
6. The person(s) listed in VII.A.3. above, will also ensure that the Company enters into confidentiality agreements, as necessary, with any joint venture partners or independent contractors to whom it discloses or provides access to any CPNI.
7. Any improper use of CPNI will result in disciplinary action in accordance with established Company disciplinary policies. Any improper use of CPNI shall be treated as a serious offense, and may result in suspension or termination of employment in appropriate cases. Any company personnel making improper use of CPNI will undergo additional training to ensure future compliance.
8. The Company will provide written notice within five business days to the FCC of any instance where the opt-out mechanisms do not work properly, to such a degree that consumer's inability to opt-out is more than an anomaly.
 - i. The notice will be in the form of a letter, and will include the Company's name, a description of the opt-out mechanism(s) used, the problem(s) experienced, the remedy proposed and when it will be/was implemented, whether or not any relevant state

commission(s) has been notified and whether it has taken any action, a copy of the notice provided to customers, and contact information.

ii. The Company must submit the notice even if the Company offers other methods by which consumers may opt-out.

9. On an annual basis, a Corporate officer will sign a compliance certificate (Appendix 1), stating that the officer has personal knowledge that the company has established operating procedures that are adequate to ensure compliance with the FCC's rules.

10. The Company will review these procedures on a continuing basis to ensure compliance with all FCC regulations, and will revise these procedures as needed to reflect any subsequent revisions to the applicable Rules and Regulations addressing CPNI.

B. Recordkeeping

1. The Company will maintain records of its own sales and marketing campaigns that use CPNI in files clearly identified as such. These records include a description of each campaign, the specific CPNI that was used in the campaign, and the products and services that were offered as a part of the campaign. The Company will maintain these records in its offices for a minimum period of one year.

2. The Company will maintain records of its affiliates' sales and marketing campaigns that use CPNI in files clearly identified as such. Those records shall include a description of each campaign, the specific CPNI that was used in the campaign, and the products and services that were offered as a part of the campaign. The Company will maintain said records in its offices for a minimum period of one year.

3. The Company will maintain records of all instances where it discloses or provides CPNI to any third party, or where any third party has been allowed access to CPNI, in files clearly identified as such. Those records will include a description of each campaign, the specific CPNI that was used in the campaign, and the products and services that were offered as a part of the campaign. The Company shall maintain those records in its offices for a minimum period of one year.

4. The Company's policy is to maintain records of customer approval for use of CPNI, as well as notices required by the FCC's regulations, for a minimum period of one year. The Company maintains records of customer approval and disapproval for use of CPNI in a readily-available location that is consulted on an as-needed basis.

5. The Company shall maintain separate files in which it will retain any court orders respecting CPNI.

APPENDIX 1

CERTIFICATE OF COMPLIANCE WITH PROTECTION OF CUSTOMER PROPRIETARY NETWORK INFORMATION RULES

Annual 47 C.F.R. 64.2009(e) CPNI Certification

E.B. Docket 06-36

Annual 64.2009(e) CPNI Certification for 2008

Date Filed: March 2, 2009

Name of companies covered by this certification:

1. LP Broadband, d.b.a. Skybeam Colorado
2. AirCanopy Services, d.b.a. Skybeam Texas
3. Digis LLC
4. Suburban Broadband, LLC
5. Essex Telcom Inc, d.b.a. T6 Wireless
6. Rhino Communications Inc
7. Skybeam Acquisition Corporation

Form 499 Filers I.D. Numbers:

1. 826253
2. 826095
3. 826259
4. 826524
5. 823076
6. 829810
7. 829809

Name of signatory: John S. Koo


Title of signatory: Chief Executive Officer

I, John S. Koo, certify that I am an officer of the companies named above, and acting as an agent of the companies, that I have personal knowledge that each of the companies has established operating procedures that are adequate to ensure compliance with the Commission's CPNI rules.

Attached to this certification is a copy of the companies CPNI Compliance Manual and Operating Procedures for JAB Wireless, Inc. and its Operating Companies, detailing how the companies' procedures ensure that all are in compliance with the requirements set forth in Section 64.2001 *et seq.* of the Commission's rules. The operating companies within JAB Wireless are those listed above.

The company has not taken any actions (proceedings instituted or petitions filed by a company at either state commissions, the court system, or at the Commission against data brokers) against data brokers in the past year.

The companies have not received any customer complainants in the past year concerning the unauthorized release of CPNI.

Signed: 
Chief Executive Officer

CPNI OPERATING MANUAL AND GUIDELINES ACKNOWLEDGEMENT

APPENDIX 2

Employee Verification

Employee Name:

I confirm that by checking the verification box and by typing my digital signature on the Company's Intranet site that I have read, understand and will abide by the policies in the document listed above.

APPENDIX 3

SAMPLE OPT-OUT NOTICE

JAB Wireless Inc utilizes Customer Proprietary Network Information (CPNI) when providing telecommunications products and services to its customers. CPNI is defined as information relating to the quality, technical configuration, destination and amount of use of telecommunications services, including information that may appear on a customer's bill. Information published in the telephone directory is not CPNI.

Under Federal law, telephone companies have a duty to protect this information. As a customer, you have the right at any time to restrict the use of CPNI for marketing purposes. This is considered an "Opt-Out" approach.

Your approval to use CPNI may enhance the Company's ability to offer products and services tailored to your needs.

The Company proposes to use your CPNI to [Specify: (1) the information that will be used, (2) the specific entities that will receive the CPNI, (3) the purposes for which CPNI will be used].

If you wish to opt-out, you should take the following steps: [list]

Your decision to opt-out will not affect the provision of any services to which you subscribe. The Company does not and will not sell or offer such information to any third party, except as permitted under Federal Communications Commission regulations. Once you opt-out, you will remain on this list until your request otherwise.

If the Company does not receive an opt-out from you prior to the expiration of the 30-day period following the Company's sending of this notice to you, it will assume that you approve of its proposed use of your CPNI.

Exhibit 2



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 14-138
February 5, 2014
Enforcement Advisory No. 2014-02

FCC ENFORCEMENT ADVISORY

**TELECOMMUNICATIONS CARRIERS AND INTERCONNECTED VOIP PROVIDERS MUST FILE
ANNUAL REPORTS CERTIFYING COMPLIANCE WITH COMMISSION RULES PROTECTING
CUSTOMER PROPRIETARY NETWORK INFORMATION**

ANNUAL CPNI CERTIFICATIONS DUE MARCH 1, 2014

**Filing of 2013 Annual Customer Proprietary Network Information (CPNI) Certifications
EB Docket No. 06-36**

The FCC's Enforcement Bureau again reminds telecommunications carriers and interconnected VoIP providers of their obligation to file, by March 1, their annual reports certifying compliance with the Commission's rules protecting Customer Proprietary Network Information (CPNI).¹ CPNI includes some of the most sensitive personal information that carriers have about their customers as a result of their business relationship (e.g., phone numbers of calls made and received; the frequency, duration, and timing of such calls; and any services purchased by the consumer, such as call waiting and voicemail). In prior years, many companies have either failed to file entirely or filed certificates that violate our rules in material respects. Failure to file a timely and complete certification calls into question whether a company has properly complied with the rules requiring it to protect its customers' sensitive information. Telecommunications carriers and interconnected VoIP providers may satisfy their certification filing obligation in several ways, each of which is described in Attachment 1.

Because the CPNI rules provide important consumer protections, the Commission has taken enforcement action against telecommunications carriers and interconnected VoIP providers that were not in compliance with the requirements, and we intend to continue to strictly enforce the rules. Companies are reminded that failure to comply with the CPNI rules, including the annual certification requirement, may subject them to enforcement action, including monetary forfeitures of up to \$160,000 for each violation or each day of a continuing violation, up to a maximum of \$1,575,000.² False statements or misrepresentations to the Commission may be punishable by fine or imprisonment under Title 18 of the U.S. Code.

Attachments: (1) Frequently Asked Questions; (2) CPNI Certification Template; (3) Text of the CPNI rules.

Issued by: Chief, Enforcement Bureau

¹ This Enforcement Advisory highlights certain obligations under the CPNI rules. Failure to receive this notice does not absolve a provider of the obligation to meet the requirements of the Communications Act of 1934, as amended, or the Commission's rules and orders. Companies should read the full text of the relevant CPNI rules at 47 C.F.R. § 64.2001 *et seq.*

² 47 U.S.C. § 503(b)(2)(B); see also 47 C.F.R. § 1.80(b)(2); *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, 28 FCC Rcd 10785 (2013).

FREQUENTLY ASKED QUESTIONS

The following frequently asked questions are addressed in this Enforcement Advisory:

- What are the CPNI rules, and where can I find them?
- Who is required to file?
- Is there an exemption for small companies?
- What must be included in the filing?
- When are companies required to file the annual certification?
- Is this the same as my form 499 filing or my USF filing?
- What format should I use for my CPNI certification?
- How do I file the CPNI certification?
- What if I have questions?

What are the CPNI rules, and where can I find them?

Protection of CPNI is a fundamental obligation under Section 222 of the Communications Act of 1934, as amended (Act). Consumers are understandably concerned about the security of the sensitive, personal data they provide to their service providers. In recognition of these concerns, the Commission has issued rules requiring carriers and interconnected VoIP providers to establish and maintain systems designed to ensure that they adequately protect their subscribers' CPNI. Those rules also require that all companies subject to the CPNI rules file an annual certification documenting their compliance with the rules, and documenting any complaints or problems. Companies must file these certifications with the Commission on or before March 1 each year.

The CPNI rules are found at 47 C.F.R. § 64.2001 *et seq.* A copy of the current version of the certification portion of the rules is attached to this Enforcement Advisory. To ensure that you are aware of any changes to the rules, you are advised *always* to check the current version of the Code of Federal Regulations, which can be found at the Government Printing Office website, here: <http://www.gpoaccess.gov/CFR/>.

Who is required to file?

Telecommunications carriers and interconnected VoIP providers must file a CPNI certification each year.

- A "telecommunications carrier" is "any provider of telecommunications services," except an aggregator.¹ 47 U.S.C. § 153(51). The Communications Act defines telecommunications service as "the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used." 47 U.S.C. § 153(53).
- Some examples of "telecommunications carriers" that must file an annual certification are: local exchange carriers (LECs) (including incumbent LECs, rural LECs, and competitive LECs), interexchange carriers,

¹ Section 226 defines an aggregator as "any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services." 47 U.S.C § 226(a)(2).

paging providers, commercial mobile radio services providers, resellers, prepaid telecommunications providers, and calling card providers. *This list is not exhaustive.*

- "Interconnected VoIP providers" are companies that provide a service that: "(1) enables real-time, two-way voice communications; (2) requires a broadband connection from the user's location; (3) requires Internet protocol-compatible customer premises equipment (CPE); and (4) permits users generally to receive calls that originate on the public switched telephone network and terminate calls to the public switched network." 47 C.F.R. § 9.3.

Is there an exemption for small companies?

No, there is no exemption for small companies. Section 64.2009(e) of the rules – the annual certification filing requirement – applies regardless of the size of the company.

What must be included in the filing?

The certification must include all of the elements listed below:

- an officer of the company must sign the compliance certificate;
- the officer must state in the certification that he or she has personal knowledge that the company has established operating procedures that are adequate to ensure compliance with the CPNI rules;
- the company must provide a written statement accompanying the certification explaining how its operating procedures ensure that it is or is not in compliance with the CPNI rules;
- the company must include an explanation of any actions taken against data brokers; and
- the company must include a summary of all consumer complaints received in the prior year concerning unauthorized release of CPNI.

In reviewing prior years' filings, we have found a number of recurring deficiencies. In particular, many companies:

(1) fail to have the officer signing the certification affirmatively state that he or she has *personal knowledge* that the company has established operating procedures that are adequate to ensure compliance;

(2) fail to provide a statement accompanying the certification explaining how their operating procedures ensure that they are or are not in compliance with the rules. **Simply stating that the company has adopted operating procedures without explaining how compliance is being achieved does not satisfy this requirement;**

(3) fail to state clearly whether any actions were taken against data brokers in the prior year (if there were no such actions, the company should *include an affirmative statement* of that fact to make clear that it has provided the required information); and

(4) fail to state clearly whether any customer complaints were received in the prior year concerning the unauthorized release of CPNI (if there were no such complaints, the company should *include an affirmative statement* of that fact to make clear that it has provided the required information).

To help companies ensure that their certifications contain all of the required information, we are providing a suggested template, attached to this Enforcement Advisory.

When are companies required to file the annual certification?

The 2014 annual certification filing (for calendar year 2013) is due **no sooner than January 1, 2014, but no later than, March 1, 2014**. You may not file before January 1, 2014, because your certification must contain data pertaining

to the entire previous calendar year. Certifications filed before January 1, 2014 do not comply with the rules. If you filed too soon, you must re-file by March 1 with a new certification that covers the entire calendar year 2013. If you filed after January 1, 2014, we recommend that you review your certification to ensure that it includes all the necessary information (including the required attachments and explanations) and refile if needed.

Is this the same as my Form 499 filing or my USF filing?

No, the annual CPNI certification filing is different from Form 499 filings and USF filings.

What format should I use for my CPNI certification?

A suggested template is attached to this Enforcement Advisory. See Attachment 2. This template was designed to ensure that companies will comply with the annual certification filing requirement of 47 C.F.R. § 64.2009(e) if they complete it fully and accurately. Use of this template is not mandatory, and companies may use any format that fulfills the requirements of the rule. If you elect to use the suggested template, we encourage you to review the template carefully and to ensure that all fields are fully completed before submission.

How do I file the CPNI certification?

Certifications may be filed: (1) using the Commission's web-based application; (2) using the Commission's Electronic Comment Filing System (ECFS); or (3) by filing paper copies. Paper filings and filings submitted through ECFS must reference **EB Docket No. 06-36** and must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Suite TW-A325, Washington, DC 20554. Companies must file a separate certification for each affiliate with a unique 499 filer ID number. **Under no circumstances should copies of certifications be sent to the Enforcement Bureau or to any individuals within the Enforcement Bureau unless such filing is a requirement of a consent decree with the Enforcement Bureau.**¹

- **Web-Based Electronic Filers:** To file a certification using the Commission's web-based application specifically designed for this purpose, visit <http://apps.fcc.gov/eb/CPNI>. Instructions are provided at the website.
- **ECFS Electronic Filers:** To file a certification using ECFS, visit <http://www.fcc.gov/cgb/ecfs/>. In completing the transmittal screen, filers should include the full name of the company, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. The website provides instructions.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. All filings must reference EB Docket No. 06-36 and be addressed to Marlene H. Dortch, Secretary, Federal Communications Commission, 445 12th Street SW, Suite TW-A325, Washington, DC 20554. Filings may be transmitted by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail as follows:
 - Hand or messenger-delivered paper filings should be directed to the Commission's headquarters building, at 445 12th Street SW, Washington, DC 20554. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) should be directed to 9300 East Hampton Drive, Capitol Heights, MD 20743.
 - U.S. Postal Service first-class, Express, and Priority mail should be directed to the Commission's Secretary at her address, provided above.

¹ Include the relevant case number on the certification if filing pursuant to a consent decree.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

What if I have questions?

For further information regarding the annual certification filing, contact any of the following individuals in the Telecommunications Consumers Division, Enforcement Bureau: Edward Hayes (202) 418-7994, Donna Cyrus (202) 418-7325, Mika Savir (202) 418-0384, or Kimberly Wild (202) 418-1324.

Annual 47 C.F.R. § 64.2009(e) CPNI Certification Template

EB Docket 06-36

Annual 64.2009(e) CPNI Certification for *[Insert year]* covering the prior calendar year *[Insert year]*

1. Date filed: *[Insert date]*
2. Name of company(s) covered by this certification: *[Insert company name]*
3. Form 499 Filer ID: *[Provide relevant ID number(s)]*
4. Name of signatory: *[Insert name]*
5. Title of signatory: *[Insert title of corporate officer]*
6. Certification:

I, *[Insert name of officer signing certification]*, certify that I am an officer of the company named above, and acting as an agent of the company, that I have personal knowledge that the company has established operating procedures that are adequate to ensure compliance with the Commission's CPNI rules. See 47 C.F.R. § 64.2001 *et seq.*

Attached to this certification is an accompanying statement explaining how the company's procedures ensure that the company is in compliance with the requirements (including those mandating the adoption of CPNI procedures, training, recordkeeping, and supervisory review) set forth in section 64.2001 *et seq.* of the Commission's rules.

The company *[has/has not]* taken actions (*i.e.*, proceedings instituted or petitions filed by a company at either state commissions, the court system, or at the Commission against data brokers) against data brokers in the past year. [NOTE: If you reply in the affirmative, provide an explanation of any actions taken against data brokers.]

The company *[has/has not]* received customer complaints in the past year concerning the unauthorized release of CPNI [NOTE: If you reply in the affirmative, provide a summary of such complaints. This summary must include the number of complaints, broken down by category or complaint, *e.g.*, instances of improper access by employees, instances of improper disclosure to individuals not authorized to receive the information, or instances of improper access to online information by individuals not authorized to view the information.]

The company represents and warrants that the above certification is consistent with 47 C.F.R. § 1.17, which requires truthful and accurate statements to the Commission. The company also acknowledges that false statements and misrepresentations to the Commission are punishable under Title 18 of the U.S. Code and may subject it to enforcement action.

Signed _____ *[Signature of an officer, as agent of the carrier]*

Attachments: Accompanying Statement explaining CPNI procedures
 Explanation of actions taken against data brokers (if applicable)
 Summary of customer complaints (if applicable)

47 C.F.R. § 64.2009 Safeguards required for use of customer proprietary network information.

- (a) Telecommunications carriers must implement a system by which the status of a customer's CPNI approval can be clearly established prior to the use of CPNI.
- (b) Telecommunications carriers must train their personnel as to when they are and are not authorized to use CPNI, and carriers must have an express disciplinary process in place.
- (c) All carriers shall maintain a record, electronically or in some other manner, of their own and their affiliates' sales and marketing campaigns that use their customers' CPNI. All carriers shall maintain a record of all instances where CPNI was disclosed or provided to third parties, or where third parties were allowed access to CPNI. The record must include a description of each campaign, the specific CPNI that was used in the campaign, and what products and services were offered as a part of the campaign. Carriers shall retain the record for a minimum of one year.
- (d) Telecommunications carriers must establish a supervisory review process regarding carrier compliance with the rules in this subpart for outbound marketing situations and maintain records of carrier compliance for a minimum period of one year. Specifically, sales personnel must obtain supervisory approval of any proposed outbound marketing request for customer approval.
- (e) A telecommunications carrier must have an officer, as an agent of the carrier, sign and file with the Commission a compliance certificate on an annual basis. The officer must state in the certification that he or she has personal knowledge that the company has established operating procedures that are adequate to ensure compliance with the rules in this subpart. The carrier must provide a statement accompanying the certificate explaining how its operating procedures ensure that it is or is not in compliance with the rules in this subpart. In addition, the carrier must include an explanation of any actions taken against data brokers and a summary of all customer complaints received in the past year concerning the unauthorized release of CPNI. This filing must be made annually with the Enforcement Bureau on or before March 1 in EB Docket No. 06-36, for data pertaining to the previous calendar year.
- (f) Carriers must provide written notice within five business days to the Commission of any instance where the opt-out mechanisms do not work properly, to such a degree that consumers' inability to opt-out is more than an anomaly.
 - (1) The notice shall be in the form of a letter, and shall include the carrier's name, a description of the opt-out mechanism(s) used, the problem(s) experienced, the remedy proposed and when it will be/was implemented, whether the relevant state commission(s) has been notified and whether it has taken any action, a copy of the notice provided to customers, and contact information.
 - (2) Such notice must be submitted even if the carrier offers other methods by which consumers may opt-out.